

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

EUGENE LAWRENCE MOORE,)	
)	
Petitioner)	
)	
vs.)	No. CIV-08-797-C
)	
DAVID PARKER, Warden,)	
)	
Respondent)	

ORDER OF DISMISSAL

This matter is before the Court on the Report and Recommendation entered by the United States Magistrate Judge on December 11, 2008. The court file reflects that no party has objected to the Report and Recommendation within the time limits prescribed. Therefore, the Court adopts the Report and Recommendation in its entirety.

Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and the claims in Grounds One, Two, and Three are dismissed with prejudice as untimely. Respondent's "Motion to Dismiss Petition for Habeas Corpus for Failure to Exhaust State Court Remedies" (Dkt. No. 10) is denied as moot as to Grounds One, Two, and Three, and granted as to Ground Four. The claim asserted in Ground Four is therefore dismissed without prejudice. Petitioner's motion to amend the petition to omit his unexhausted claim (Dkt. No. 14) and his motion to stay this habeas proceeding (Dkt. No. 15) while he exhausts his claim in Ground Four is denied.

The action is dismissed.

IT IS SO ORDERED this 15th day of January, 2009.



ROBIN J. CAUTHRON
United States District Judge